

Renumber Title 22, Division 6, Chapter 7.5, Article 1. to Title 22, Division 6, Chapter 9.5, Article 1; and Section 87000 to new Section 89200 and amend to read:

## TITLE 22, DIVISION 6

### CHAPTER 9.5 FOSTER FAMILY HOMES

#### Article 1. GENERAL REQUIREMENTS, DEFINITIONS, AND FORMS

89200      General 89200

- (a) The caregiver shall ensure compliance with all applicable law and regulations.
- (b) The provisions of Chapter 1, General Licensing Requirements shall not apply to Chapter 9.5, Foster Family Homes.

Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1502, 1530, 1530.5 and 1531, Health and Safety Code.

Renumber Section 87001 to new Section 89201 and amend to read:  
Post-hearing: Amend Sections 89201(c)(13), (e)(4), and (s) to read:

89201 Definitions

89201

The following definitions shall apply whenever the terms are used throughout this chapter.

(a) (1) (Continued)

(3) "Approval Agency" means the child-placing agency that has the responsibility to approve the homes of relative and nonrelative extended family members as meeting the same standards as those set forth in Article 3 of this chapter.

(4) "Approved Home" means the home of a relative or nonrelative extended family member that is exempt from licensure and is approved as meeting the same standards as those set forth in Article 3 of this chapter.

(5) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.

(b) (1) "Basic Rate" means the rate charged by a home to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allotted for the recipient's personal and incidental needs. (Continued)

(c) (1) "California Department of Justice Clearance" means an individual has no felony or misdemeanor convictions, other than a minor traffic violation, reported by the California Department of Justice.

(2) "Capacity" (Continued)

(3) "Care and Supervision" means any one or more of the following activities provided by a caregiver to meet the needs of the children: (Continued)

(B) Assistance with taking medication, as specified in Section 89475(c).

(C) Central storing and/or distribution of medications, as specified in Section 89475(c). (Continued)

(I) Providing basic services as defined in Section 89201(b)(2).

(4) "Caregiver" for the purpose of this chapter means, the licensed/approved individual having the authority and responsibility for the operation of a home.

- (5) "Caregiver's Family" means any relative, as defined in Section 89201(r)(1), or adopted children or persons under guardianship or conservatorship of the caregiver, or the caregiver's spouse, who reside in the home.
- (6) "Cash Resources" means: (Continued)
- (7) "Child" means a person who is under 18 years of age or a person up to 19 years of age, who meets the requirements of Section 11403 of the Welfare and Institutions Code, who is being provided care and supervision in a foster family home, except where specified otherwise in this chapter.

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- (A) Welfare and Institutions Code Section 11403 provides:

"A child who is in foster care and receiving aid pursuant to this chapter and who is attending high school or the equivalent level of vocational or technical training on a full-time basis prior to his or her 18th birthday, may continue to receive aid following his or her 18th birthday so long as the child continues to reside in foster care placement, remains otherwise eligible for AFDC-FC payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis and the child may reasonably be expected to complete the educational or training program before his or her 19th birthday. Aid shall be provided such an individual pursuant to this section provided both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, which documents the continued need for out-of-home placement."

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- (8) "Child Abuse Central Index" (CACI) means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (9) "Child Abuse Central Index (CACI) Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match, or if there is a match the allegation(s) was not substantiated by the Department after independent review and investigation pursuant to Section 1522.1 of the Health and Safety Code.
- (10) "Child with Special Health Care Needs" means a child who is under 18 years of age or a person up to 22 years of age or younger, who meets the requirements of Section

17710(a) of the Welfare and Institutions Code and all of the following conditions:  
(Continued)

(B) (Continued)

3. (Continued)

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(C) Welfare and Institutions Code Section 17710(a) provides:

"Child with special health care needs' means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center."

#### HANDBOOK ENDS HERE

(11) "Completed Application" means:

(A) The applicant has submitted and the licensing agency has received, all required materials, including an approved fire clearance, if applicable, from the local fire authority having jurisdiction, a CACI clearance, and a California criminal record clearance or exemption, or evidence of compliance with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code on the applicant and any other individuals specified in Section 89219.  
(Continued)

(12) "Conservator" means a person appointed by the Superior Court pursuant to the provisions commencing with Section 1800 of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

(13) "Control of Property" means the legal right to enter, occupy, and maintain the operation of the home as verified by documentation provided upon request of the Department; such documentation may include:

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

- (C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement; or
  - (D) any other documents acceptable to the Department (for example, but not limited to, utility bills, insurance statement, etc.).
- (14) "Conviction" means:
- (A) A criminal conviction in California; or
  - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (15) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and an FBI clearance or evidence of compliance with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act commencing with Section 1500 of the Health and Safety Code and/or regulations adopted by the Department pursuant to the Act.
- (2) "Department" is defined in Section 1502(b) of the Health and Safety Code as the State Department of Social Services.
- (3) "Director" is defined in Section 1502(c) of the Health and Safety Code as the Director of the State Department of Social Services.
- (4) "Disability" means a condition that makes a child developmentally disabled, mentally disordered or physically handicapped, and for whom special care and supervision is required as a result of his/her condition.
- (5) "Documented Alternative Plan (DAP)" means a written plan, reviewed and approved by the licensing or approval worker on a case-by-case basis as a plan that is an alternative, but equally protective manner of meeting the intent of specified regulations in Article 3 of this chapter.
- (e) (1) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license homes.
- (2) "Evidence of Caregiver's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the caregiver's death.

- (3) "Exception" means a child-specific, nontransferable, written authorization issued by the licensing agency that approves an equally protective manner of complying with the intent of a specific regulation(s) and which are based on documentation of the unique needs or circumstances of a specific child placed in the home. Exceptions are granted for a particular child and cannot be transferred or applied to other children or other homes or caregivers. Exception does not apply to Article 3 of this chapter.
- (4) "Exemption" means the granting of an exemption to the disqualification for a license, employment or presence in a home, as allowed under Section 1522(g) of the Health and Safety Code, for an individual who does not have a criminal records clearance. An exemption is not transferable, except as provided in Section 89219.1(pg).

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- (A) Health and Safety Code Section 1522(g)(1) reads in part:

"After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). . ."

#### HANDBOOK ENDS HERE

- (f) (1) "Family Health Care" means health care which does not require the skills of qualified technical or professional personnel and is provided to a child by the foster parent in accordance with Section 89475, Health Related Services. When these requirements are met, the family health care that may be provided includes, but is not limited to the following: (Continued)
- (F) Assistance with other procedures such as injections where not otherwise prohibited by law.
- (2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions, other than a minor traffic violation, reported by the FBI.
- (3) "Foster Family Home" means any home where the caregiver, in their own home, provides care and supervision six or fewer foster children and the caregiver has control of the property. This also includes sibling care for up to eight children provided the requirements of Section 1505.2 of the Health and Safety Code are met. (Continued)

- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to the provisions commencing with Section 1500 of the Probate Code or Section 360 of the Welfare and Institutions Code to care for the person, or estate, or the person and estate, of another.
- (h) (1) "Health Care Professional" (Continued)
  - (2) "Home" means for the purpose of this chapter a Foster Family Home.
- (i) (1) "Independent Living Program (ILP)" means the program authorized under 42 USC Section 677 of the Social Security Act for services and activities to assist children age 16 or older in foster care to make the transition from foster care to independent living.
  - (2) "Individualized Health Care Plan" (Continued)
  - (3) "Individualized Health Care Plan Team" means those individuals who develop an individualized health care plan for a child with special health care needs, which must include the child's primary care physician or other health care professional designated by the physician, any involved medical team, the county social worker or regional center caseworker, and any health care professional designated to monitor the specialized in-home health care provided to the child pursuant to the child's individualized health care plan. The individualized health care plan team may include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, the individualized health care plan team may include the prospective specialized caregiver, but that caregiver shall not participate in any team determination required by Sections 89510.1(a)(1)(C), and 89565.1(a)(1)(B).
  - (4) "Infant" (Continued)
- (j) (Continued)
- (k) (Continued)
- (l) (1) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
  - (2) "Licensed Home" means a home that is licensed by Community Care Licensing in accordance with the standards set forth in Article 3 of this chapter. The license cannot be transferred to another person or location.

- (m) (1) "Medical Conditions Requiring Specialized In-Home Health Care" means provided that care may be safely and adequately administered in the home:
  - (A) A dependency upon one or more of the following when, but for the fact that trained foster parents may provide these services under Section 17736 of the Welfare and Institutions Code, the skills of qualified technical or professional personnel would be required: Enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by tracheostomy, colostomy, ileostomy, ileal conduit or other medical or surgical procedures or special medication regimens, including injection and intravenous medication; or (Continued)
- (2) "Medical Professional" means a Health Care Professional.
- (n) (1) "Needs and Services Plan" means a time-limited, goal-oriented written plan which identifies the specific needs of an individual child. This plan shall contain at a minimum the information required in Section 89370 and information on the background and needs of the child that the placing social worker deems necessary for the effective care of the child. This may include a social work assessment, medical reports, educational assessment, and identification of special needs when necessary.
- (2) "Nonrelative Extended Family Member" means any adult caregiver who has an established familial or mentoring relationship with the child pursuant to Section 362.7 of the Welfare and Institutions Code.

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- (A) Welfare and Institutions Code Section 362.7 provides:

"When the home of a nonrelative extended family member is being considered for placement of a child, the home shall be evaluated, and approval of that home shall be granted or denied, pursuant to the same standards set forth in the regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

"A 'nonrelative extended family member' is defined as any adult caregiver who has an established familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends."

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- (3) "Nonambulatory Person" means a person as defined in Section 13131 of the Health and Safety Code.

- (A) A person who uses postural supports as specified in Section 89372(a)(7), is nonambulatory. (Continued)

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- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons' means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative."

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- (o) (Reserved)

- (p) (1) (Continued)

- (4) "Provision" or "Provide" means whenever any regulation requires that provision be made for or that there be provided any service, personnel, or other requirement, the caregiver shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.

- (q) (Reserved)

- (r) (1) "Rehabilitation" means that period of time, together with any education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service, which assist an individual in reestablishing good character.

- (2) "Relative" means: (Continued)

- (s) (1) "Serious Deficiency" (Continued)

- (2) "Sexual Orientation" means, for the purpose of this chapter, the identification of any individual as heterosexual, gay, lesbian or bisexual.

- (23) "Social Worker" (Continued)
- (34) "Specialized Foster Family Home" means a licensed foster family home which provides specialized in-home health care to children pursuant to Section 1507 of the Health and Safety Code and Section 17710(i) of the Welfare and Institutions Code.
- (45) "Specialized In-Home Health Care" means health care as defined in Section 17710(h) of the Welfare and Institutions Code, other than family health care, identified by the child's primary physician as appropriately administered in the home by a health care professional or by a foster parent trained by health care professionals.
- (56) "SSI/SSP" (Continued)
- (t) (1) "Transitional Independent Living Plan (TILP)" means the portion of the child's case plan that describes the programs and services, including employment and savings, as appropriate, based on an assessment of the individual child's skills and abilities, that will help the child prepare for transition from foster care to independent living.
- (u) (1) "Unlicensed Community Care Facility" means a facility as defined in Section 1503.5 of the Health and Safety Code.

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- (A) Health and Safety Code Section 1503.5(a) provides in pertinent part:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide non-medical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:  
(Continued)

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- (B) A home which is "providing care and supervision" as defined in Section 89201(c)(2) includes, but is not limited to, one in which an unemancipated minor has been placed for temporary or permanent care.
- (C) A home which is "held out as or represented as providing care and supervision" includes, but is not limited to:
- (1) A home which has been revoked or denied as follows:
- a. a license, if licensed as a foster family home; or
  - b. an approval, if approved as a nonrelative extended family member home; or

- c. a certificate, if certified by a Foster Family Agency as a foster home; and,
  - d. the individual continues to provide care for the same or different clients with similar needs.
- (2) A home where change of ownership has occurred and the same clients are retained.
- (3) A licensed home that moves to a new location.
- (4) A home which advertises as providing care and supervision.
- (D) A home which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limit to a home which houses unemancipated minors, even though the home is providing board and room only, or board only, or room only.
- (v) (1) "Volunteer" means a person who provides gratuitous, non-essential services and does not replace required staff.
- (w) (1) "Waiver" means a home-wide nontransferable written authorization issued by the licensing agency that approves an equally protective manner of complying with the intent of a specific regulation which is based on a demonstration of the unique needs or circumstances of the home. Waiver does not apply to Article 3 of this chapter.
- (x) (Continued)
- (y) (Continued)
- (z) (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 319(d), 362.7, 11400, 11403, 16522, 17710, 17710(a), (g), (h) and (i), 17731, 17731(c) and 17736(a), Welfare and Institutions Code; ~~and~~ Sections 1337, 1500, 1501, 1502, 1503, 1503.5, 1505, 1505.2, 1507, 1507.5, 1520, 1522, 1522.1 1524, 1524(e), 1526, 1526.5, 1527, 1530, 1530.5, 1530.6, 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, 1558, 1558.1, 1559.110, 1727(c), 11834.11, and 13131, Health and Safety Code; Unruh Civil Rights

Act, Civil Code Section 51; and California Fair Employment and Housing Act,  
Government Code Section 12921.

Adopt Section 89202 to read:

Post-hearing: Amend Section 89202 to read:

89202        Definitions - Forms

89202

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 9.5 (Foster Family Homes).

- (a) LIC 198 (2/01) – Child Abuse Central Index Check for County Licensed Facilities.
- (b) LIC 198A (3/99) – Child Abuse Central Index Check for State Licensed Facilities.
- (c) LIC 508 (3/02) – Criminal Record Statement.
- (d) LIC 9182 (4/02) – Criminal Background Clearance Transfer Request.
- (e) LIC 9188 (3/02) – Criminal Record Exemption Transfer Request.
- (f) PUB 396 (5/02) – Foster Youth Rights Poster.

Authority Cited: Section 1530, Health and Safety Code and Section 21 of Assembly Bill 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1522 and 1522.1, Health and Safety Code.

Renumber Chapter 7.5, Article 2., to new Chapter 9.5, Article 2., and Section 87005 to new Section 89205 and amend to read:

## Article 2. ADMINISTRATIVE

89205 License Required

89205

Unless a home is exempt from licensure as specified in Section 89207, no individual shall operate, establish, manage, conduct or maintain a foster family home, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1503, 1503.5, 1505, 1508, 1509, 1513, 1524, 1531, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code.

Renumber Section 87006 to new Section 89206 and amend to read:

Post-hearing: Amend Section 89206(a) to read:

89206      Operation Without a License

89206

- (a) An unlicensed facility as defined in Section 89201(u-)(1), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 1505 of the Health and Safety Code or Section 89207 of this chapter.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit, and/or an evaluation of the home pursuant to Section 1533 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1533 provides in pertinent part:

Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

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- (c) (Continued)

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 89255 and Section 1547 of the Health and Safety Code.

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- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty ... shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

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- (e) Sections 89206(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code. (Continued)

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist: (Continued)
  - (2) The home does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of the law.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1503, 1503.5, 1505, 1508, 1524, 1533, 1536.1, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.



Renumber Section 87007 to new Section 89207 and amend to read:

89207      Exemption from Licensure

89207

- (a) The provisions of this chapter shall not apply to those facilities and arrangements specified in Section 1505 of the Health and Safety Code.

(6)(A) through (H) (Renumbered to Sections 89207(b)(1) through (9)

(10) Renumbered to Section 89207(c)(5)

(11) through (12) (Renumbered to Sections 89207(c)(1) through (2).)

(13) through (13)(C) (Renumbered to Sections 89207(c)(3) through (c)(3)(C).)

(14) through (14)(C) (Renumbered to Sections 89207(b)(4) through (b)(4)(C).)

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- (1) Health and Safety Code 1505 states in pertinent part:

This chapter does not apply to any of the following...

(a) ...

(b) ...

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the Department.

(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the Director.

- (i) Recovery houses or other similar facilities providing a group living arrangement for persons recovering from alcoholism or drug addiction which provides no care or supervision.
- (j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.
- (k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.
- (l)
  - (1) Any home of a relative caregiver of children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.
  - (2) Any home of a nonrelative extended family member, as described in Section 362.7 of the Welfare and Institutions code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probations department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.
- (m) ...
- (n) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act, Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code are place and that is one of the following:
  - (1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.
  - (2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.
- (o) ...
- (p) Any similar facility determined by the director.

HANDBOOK ENDS HERE

- (b) The provisions of this chapter shall not apply to any school dormitory or similar facility where all of the following conditions exist:

- (1) (Continued)
  - (2) (Continued)
  - (3) (Continued)
  - (4) (Continued)
  - (5) (Continued)
  - (6) (Continued)
  - (7) (Continued)
  - (8) (Continued)
  - (9) (Continued)
- (c) The provisions of this chapter shall not apply to the following additional situations:
- (1) (Continued)
  - (2) Any home exclusively used by a licensed or exempt Foster Family Agency and issued a certificate of approval by that agency.
    - (A) Such families shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The home's compliance with requirements shall be monitored through and assured by the Foster Family Agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been approved by a licensed Foster Family Agency as conforming to the regulations pertaining to the Family Home Category. A home in the exclusive use of a licensed Foster Family Agency shall accept only those children placed by that agency which approved the home.
  - (3) (Continued)
    - (C) (Continued)
  - (4) (Continued)
    - (C) (Continued)
  - (5) (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; Section 17730, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1503, 1503.5, 1505, 1505(k) and (l), 1506, 1508, 1524, 1530, 1530.5, 1531, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code; Sections 226.2, 226.5 and 226.6, Civil Code; and Sections 319(d), 362, 727, 16100, 17710(i), 17736, and 17736(b), Welfare and Institutions Code.

Renumber Section 87009 to new Section 89209 and amend to read:

89209      Availability of License      89209

(a)    The licensing agency shall have the authority to request review of the license.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference:      Sections 1501, 1503, and 1531, Health and Safety Code.

Renumber Section 87018 to new Section 89218 and amend to read:

89218      Application for License      89218

- (a) The licensing agency shall have the authority to require any applicant desiring to obtain a license to file, with the licensing agency, a verified application on forms furnished by the licensing agency and to provide verification and/or documentation as requested by the licensing agency.
- (b) The applicant/caregiver shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (c) The application and supporting documents shall contain the following: (Continued)
  - (3) A copy of document(s) that establish that the applicant has control of the property to be licensed.
  - (4) (Continued)
  - (5) (Continued)
  - (6) Information required by Section 1520(d) of the Health and Safety Code.
  - (7) Information required by Section 1520(e) of the Health and Safety Code.
  - (8) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the home is located.
  - (9) Fingerprint cards and/or identifying information as specified in Section 89319.
  - (10) Information required by Section 1522.1 of the Health and Safety Code.
  - (11) (Continued)
  - (12) A statement whether or not the caregiver will handle the children's money, personal property, and/or valuables.
- (d) and (e) (Continued)
- (f) No application processing fee shall be charged to foster family homes.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 ( Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1503, 1503.5, 1508, 1520, 1520.3, 1521.5, 1522, 1522.1, 1523.1, 1524, 1525.25, 1525.3, 1530.91, 1531, 1531.4, 1536.1, 1540, 1540.1, 1541, 1547, and 1560, Health and Safety Code.

Renumber Section 87019 to new Section 89219 and amend to read:  
Post-hearing: Amend Sections 89219(c) and (g) to read:

89219 Criminal Record Clearance

89219

(a) (Continued)

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(1) (Continued)

(D) Any staff person, volunteer, or employee who has contact with the clients.

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(b) The following persons are exempt from the requirement to submit fingerprints:

(1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the caregiver, if all of the following apply: (Continued)

(D) The individual is not a foster family home caregiver or an employee of the home.

(2) A third-party repair person, or similar retained contractor, if all of the following apply: (Continued)

(B) The individual is not left alone with foster children.

(C) When foster children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract for a foster child of the facility, and are in the home at the request of that foster child's legal decision maker.

(A) The exemption shall not apply to a person who is a foster home caregiver or an employee of the home.

(4) Clergy and other spiritual caregivers who are performing services in common areas of the home, or who are advising an individual foster child at the request of, or with the permission of, the foster child or the child's legal decision maker.



- (A) This exemption shall not apply to a person who is a foster family home caregiver or an employee of the home.
- (5) Members of fraternal, service and similar organizations who conduct group activities for foster youth, if all of the following apply:
  - (A) Members are not left alone with the foster children.
  - (B) Members do not take foster children from the home. (Continued)
- (6) Adult friends and family of the caregiver who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.
- (7) Parents of a child's friends when the child is visiting the friend's home and the friend, caregiver or both are also present.
- (8) Nothing in this paragraph shall prevent a caregiver from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has foster child contact.
- (c) Prior to the Department issuing a license or special permit to any individual or individuals to operate or manage a foster family home, the applicant and any adults residing in the home shall, unless exempt under Section 89219(b), obtain a California criminal record clearance or exemption, and shall comply with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.
- (d) Prior to presence in the home, the individuals specified in (a) shall, unless exempt under 89219(b), obtain a California criminal record clearance or exemption and shall comply with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code. (Continued)
- (e) Prior to employment, residence or initial presence in a foster family home, all individuals subject to criminal record review, in order to meet the requirements of Section 89219(c) and (d), shall be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions and arrests for any crime against a child, spousal cohabitant abuse, or for any crime for which the Department cannot grant an exemption. The declaration shall acknowledge and explain criminal convictions and arrests. The declaration shall also acknowledge that his/her continued employment, residence, or presence in the home is subject to approval of the Department.
- (1) A foster family home applicant/caregiver shall submit the fingerprints to the California Department of Justice along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation and shall comply with Section 89219(e), prior to the individual's employment, residence, or initial presence in the home.

- (A) Fingerprints shall be submitted to the California Department of Justice by the caregiver or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
- (B) A caregiver's failure to submit fingerprints to the California Department of Justice or to comply with Section 89219(e) shall result in the citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation.
  - 1. The caregiver shall then submit the fingerprints to the California Department of Justice for processing.
- (C) The Department shall notify the caregiver of criminal records clearances and where there is not a clearance, the Department shall notify both the caregiver and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (f) To continue to be employed, reside, or be present in a home, each individual shall continue to meet the requirements of Sections 89219(c) and (d).
- (g) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section ~~80019.1(a)~~ 89219.1(a) has not been granted, the Department shall take the following actions: (Continued)
  - (2) For current caregivers, the Department may institute an administrative action, including, but not limited to, revocation of the license. (Continued)
- (h) A transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility may be requested by an individual or a caregiver by providing the following documents to the Department:
  - (1) A signed Criminal Background Clearance Transfer Request, LIC 9182.
  - (2) A copy of the individual's valid identification, such as:
    - (A) California driver's license; or
    - (B) California identification card issued by the Department of Motor Vehicles; or
    - (C) Photo identification issued by another state or the United States government if the individual is not a California resident.

- (3) Any other documentation required by the Department (i.e., LIC 508, Criminal Record Statement and job description).
- (i) The caregiver shall maintain documentation of criminal record clearances or criminal record exemptions of employees and volunteers that require fingerprinting and non-client adults residing in the home.
  - (1) Documentation shall be available for inspection by the Department.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 729, Business and Professions Code; Sections 1501.1, 1520, 1522, 1522.01, 1522.04, 1524, 1531, 1558, and 14564, Health and Safety Code; Section, 8712, Family Code; 15376, Government Code; and Sections 136.1, 186.22, 187, 190 through 190.4 and 192(a), 203, 206, 207, 208, 209, 209.5, 210, 211, 212, 212.5, 213, 214, 215, 220, 243.4, 261(a), (a)(1), (2), (3), (4) or (6), 262(a)(1) or (4), 264.1, 266, 266c, 266h(b), 266i(b), 266j, 267, 269, 272, 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994], 273d, 285, 286, 288, 288a, 288.2, 288.5(a), 289, 290(a), 311.2(b), (c) or (d), 311.3, 311.10, 311.11, 314(1) or (2), 347(a), 368(b) or (c) if after January 1, 1999, 417(b), 451(a) or (b), 460(a), 186.22 and 518, 647.6 or prior to 1987 former Section 647a, 653f(c), 664/187, 667.5(c)(7), 667.5(c)(8) 667.5(c)(13), 12308, 12309 or 12310, 667.5(c)(14), 207, 208, 209, 209.5 and 210, 667.5(c)(22), 12022.53, Penal Code; and Section 42001, Vehicle Code.

Renumber Section 87019.1 to new Section 89219.1 and amend to read:

Post-hearing: Amend Sections 89219.1(a)(3) and (g)(2)(A)2. and Handbook Section 89219.1(c)(1)(B) to read:

89219.1 Criminal Record Exemption

89219.1

- (a) After a review of the criminal record transcript, the Department may grant an exemption from disqualification for a license, employment or presence in a home pursuant to Section 89219(g) if:
  - (1) The applicant/caregiver requests an exemption for himself or herself, or
  - (2) The applicant/caregiver requests an exemption in writing for an individual associated with the home, or
  - (3) The applicant/caregiver does not ~~to~~ seek an exemption for the affected individual, the affected individual may requests an individual exemption in writing, if the conditions set forth in Section 1522(c)(5) of the Health and Safety Code are met; and

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- (A) Section 1522(c)(5) of the Health and Safety Code provides:

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

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- (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed home.
- (b) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
  - (1) The nature of the crime.
  - (2) Period of time since the crime was committed and number of offenses.
  - (3) Circumstances surrounding the commission of the crime that would demonstrate that repetition is not likely.

- (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
- (5) Granting by the Governor of a full and unconditional pardon.
- (6) Character references.
- (7) A certificate of rehabilitation from a superior court.
- (8) Evidence of honesty and truthfulness as revealed in exemption application documents and interviews.
  - (A) Documents include, but are not limited to:
    - 1. A Criminal Record Statement (LIC 508, Criminal Record Statement); and
    - 2. The individual's written statement/explanation of the conviction and the circumstances surrounding the arrest.
- (9) Evidence of honesty and truthfulness as revealed in the exemption application interviews and conversations between the individual or others and the Department.
- (c) No exemption shall be granted for a crime that is listed in Section 1522(g) of the Health and Safety Code.

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Section 1522(g) of the Health and Safety Code provides in part:

- (1) Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for any of the following offenses:
  - (A) (i) An offense in Section 220, 243.4, or 264.1, or subdivision (a) of Section 273a, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.
  - (ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7) or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has

the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certification of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

- (B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

Health and Safety Code Section 1522(g)(1) lists or refers to convictions for crimes for which no exemptions are allowed. These crimes are identified below:

1. Penal Code Sections 186.22 and 136.1 – Gang related/Intimidation of witnesses or victims.
2. Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
3. Penal Code Section 203 – Any mayhem.
4. Penal Code Section 206 – Felony torture.
5. Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
6. Penal Code Sections 211, 212, 212.5, 213, 214 – Any robbery.
7. Penal Code Section 215 – Carjacking.
8. Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
9. Penal Code Section 243.4 – Sexual battery.
10. Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
11. Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
12. Penal Code Section 264.1 – Rape in concert.
13. Penal Code Section 266 – Enticing a minor into prostitution.
14. Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
15. Penal Code Section 266h(b) – Pimping a minor.

16. Penal Code Section 266i(b) – Pandering a minor.
17. Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
18. Penal Code Section 267 – Abduction for prostitution.
19. Penal Code Section 269 – Aggravated assault of a child.
20. Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
21. Penal Code Sections 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
22. Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
23. Penal Code Section 285 – Incest.
24. Penal Code Section 286 – Sodomy.
25. Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
26. Penal Code Section 288a – Oral copulation.
27. Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
28. Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
29. Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
30. Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
31. Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
32. Penal Code Section 311.3 – Sexual exploitation of a child.

33. Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
34. Penal Code Section 311.10 – Advertising or distributing child pornography.
35. Penal Code Section 311.11 – Possessing child pornography.
36. Penal Code Sections 314(1) or (2) – Lewd or obscene exposure of private parts.
37. Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
38. Penal Code Section 368(b) or (c) if after January 1, 1999 – Elder or dependent adult abuse.
39. Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
40. Penal Code Section 451(a) or (b) – Arson.
41. Penal Code Section 460(a) – First degree burglary.
42. Penal Code Sections 186.22 and 518 – Gang related/Extortion.
43. Penal Code Section 647.6 or prior to 1987 former Section 647a – Annoy or molest a child under 18.
44. Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
45. Penal Code Sections 664/187 – Any attempted murder.
46. Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
47. Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
48. Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.



49. Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
50. Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
51. Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

HANDBOOK ENDS HERE

- (d) The Department may deny an exemption request if:
  - (1) The caregiver and/or affected individual fails to provide documents requested by the Department, or
  - (2) The caregiver and/or affected individual fails to cooperate with the Department in the exemption process.
- (e) The reason for any exemption granted or denied shall be in writing and kept by the Department.
- (f) The Department may grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed home.
- (g) An individual shall be permitted to transfer a current criminal record exemption from one state-licensed facility to another provided the exemption has been processed through a state licensing regional office and the following are met:
  - (1) A signed Criminal Background Exemption Transfer Request, LIC 9188.
  - (2) The request is in writing to the Department and includes:
    - (A) A copy of the individual's valid identification, such as:
      1. California driver's license; or
      2. California identification card issued by the Department of Motor Vehicles; or
      3. Photo identification issued by another state or the United States government if the individual is not a California resident.
    - (B) Any other documentation required by the Department (i.e., LIC 508, Criminal Record Statement and job description).

- (h) If the Department denies the individual's request to transfer a conditional criminal record exemption, the Department shall provide the individual with a right to an administrative hearing to contest the Department's decision.
- (i) The Department shall take the following actions if a criminal record exemption is not or cannot be granted:
  - (1) For initial applicants, denial of the application.
  - (2) For current caregivers, the Department may institute an administrative action, including, but not limited to revocation of the license.
  - (3) For current prospective employees, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the home.
  - (4) For individuals residing in the home, caregiver or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the home.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 729, Business and Professions Code; Sections 1520, 1522, 1522.01, 1522.04, 1524, 1531, and 14564, Health and Safety Code; Section 15376, Government Code; and Sections 136.1, 186.22, 187, 190 through 190.4 and 192(a), 203, 206, 207, 208, 209, 209.5, 210, 211, 212, 212.5, 213, 214, 215, 220, 243.4, 261(a), (a)(1), (2), (3), (4) or (6), 262(a)(1) or (4), 264.1, 266, 266c, 266h(b), 266i(b), 266j, 267, 269, 272, 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994], 273d, 285, 286, 288, 288a, 288.2, 288.5(a), 289, 290(a), 311.2(b), (c) or (d), 311.3, 311.10, 311.11, 314(1) or (2), 347(a), 368(b) or (c) if after January 1, 1999, 417(b), 451(a) or (b), 460(a), 186.22 and 518, 647.6 or prior to 1987 former Section 647a, 653f(c), 664/187, 667.5(c)(7), 667.5(c)(8) 667.5(c)(13), 12308, 12309 or 12310, 667.5(c)(14), 207, 208, 209, 209.5 and 210, 667.5(c)(22), 12022.53, Penal Code.

Renumber Section 87019.2 to new Section 89219.2 and amend to read:

89219.2 Child Abuse Central Index

89219.2

- (a) Prior to the Department issuing a license or special permit for a foster family home, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Section 1522.1 of the Health and Safety Code and Section 11170(b)(3) of the Penal Code. The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review, pursuant to Section 1522(d) of the Health and Safety Code and shall have the authority to approve or deny a home license, permit, certificate, employment, residence, or presence in the home based on the results of the review.
  - (1) The applicant shall submit the Child Abuse Central Index check (LIC 198A) for all individuals required to be checked directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 89219(c).
    - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 89219(f). (Continued)
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Section 1522(b) of the Health and Safety Code, shall complete a Child Abuse Central Index check (LIC 198A) prior to employment, residence, or initial presence in the home that cares for children.
  - (1) The caregiver shall submit the Child Abuse Central Index checks (LIC 198A) directly to the California Department of Justice with the individual's fingerprints as required by Section 89219(d) prior to the individual's employment, residence or initial presence in the home.
    - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 89219(f) or Section 89219.1(c).
  - (2) The Department shall check the CACI pursuant to Section 11170(b)(3) of the Penal Code, and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse. (Continued)

- (c) An individual shall be permitted to transfer a current CACI clearance from one state-licensed facility to another in the following manner:
  - (1) If the initial CACI (LIC 198A) was submitted prior to January 01,1999, the individual must submit a new CACI (LIC 198A) to be processed through a state licensing regional office; or
  - (2) If the CACI (LIC 198A) was submitted after January 01,1999 the individual's CACI clearance will be transferred along with the transfer of either the criminal record clearance or exemption in accordance with Sections 89219 or 89219.1.

Authority Cited: Section 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1520, 1522, 1522.01, 1522.1, 1524, 1531, 1558, and 14564, Health and Safety Code; and Section 11170, Penal Code.

Renumber Section 87024 to new Section 89224 and amend to read:

89224      Waivers and Exceptions

89224

- (a) Unless prior written licensing agency approval is received as specified in (c) below, a caregiver shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to waive or grant an exception to a specific regulation(s) if the request demonstrates how the intent of the regulation(s) will be met and under the following circumstances:
  - (1) Such waiver or exception shall in no instance be detrimental to the health and safety of any child.
  - (2) The applicant or caregiver shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.
  - (3) No waiver or exception, pursuant to this section, shall be granted for any provision of Article 3, under this chapter.
- (c) The caregiver shall retain the Department's written approval or denial of the request in its facility file.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1509, 1525.25 and 1531, Health and Safety Code.

Renumber Section 87026 to new Section 89226 and amend to read:

89226      Safeguards for Cash Resources, Personal Property, and Valuables      89226

- (a) Cash resources and personal property and valuables of each child shall be separate and intact.
- (b) The caregiver shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care.
- (c) When a child leaves placement in the home, the caregiver shall surrender all of the child's cash resources, personal property, and valuables to the child's authorized representative.
  - (1) The caregiver shall obtain and retain a receipt signed by the authorized representative.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, 1558, and 1560, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Renumber Section 87027 to new Section 89227 and amend to read:  
Post-hearing: Amend Handbook Section 89227(a)(1)(A) to read:

89227      Application Review

89227

#### HANDBOOK BEGINS HERE

- (a) The licensing agency shall complete the following as part of the application review process:
  - (1) A site visit to the proposed foster family home to make a determination that all of the requirements of Article 3 of this chapter have been satisfied, including but not limited to:
    - (A) Review of the ability, willingness, and readiness ~~of~~ of the prospective foster parent to meet the varying needs of children.
      - 1. Health and Safety Code Section 1521.5 states:
        - (a) The county welfare director shall, prior to the issuance of any foster family home license, ensure that the county licensing staff, or the placement staff, conducts one or more in-home interviews with the prospective foster parent sufficient to collect information on caregiver qualifications that may be used by the placement agency to evaluate the ability, willingness, and readiness of the prospective foster parent to meet the varying needs of children. The inability of a prospective foster parent to meet the varying needs of children, shall not, in and of itself, preclude a prospective foster parent from obtaining a foster family home license. In counties in which the county has not contracted with the state to license foster family homes, the in-home interview shall be done by the placement agency.
        - (b) All in-home interviews required by this section shall be on an in-person basis.
        - (c) If the in-home interview is conducted by the licensing agency, it shall be a part of the licensing record, and shall be shared with the placement agency pursuant to subdivision (e) of Section 1798.24 of the Civil Code.
        - (d) The in-home interview required by this section shall be completed no later than 120 days following notification by the licensing agency.
        - (e) No license shall be issued unless an in-home interview has been conducted as required by this section.

- (B) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this chapter as specified in Section 1520 of the Health and Safety Code.
- (C) A determination that the applicant has secured a fire clearance from the State Fire Marshal, if required.
- (D) A determination that the home complies with the provisions of the Community Care Facilities Act and the regulations in this chapter.

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- (b) If the applicant has not submitted all materials specified in Section 89218 within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant that the application is incomplete. (Continued)
- (2) If the application has been deemed denied, the applicant shall file a new application as required by Section 89218.
- (c) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

#### HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1520.3 provides in part:

- "(a) (1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.
- "(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.



- "(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.
- "(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:
- "(1) (Continued)
- "(2) (Continued)
- "(3) (Continued)
- "(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:
- "(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
- "(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.
- "(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence."
- "(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.

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(2) (Continued)

- (B) A caregiver who did not meet the minimum qualifications, but now fulfills the qualifications; or
- (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the home. (Continued)

- (4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Section 1520.3 of the Health and Safety Code.

Authority Cited: Sections 1525, 1526, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1520, 1520.3, 1521.5, 1523.1, 1524, 1550, and 1558.1, Health and Safety Code.

Renumber Section 87028 to new Section 89228 and amend to read:

89228      Capacity Determination

89228

- (a) The number of children for whom the foster family home is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
  - (1) The caregiver's ability to comply with applicable law and regulations.
  - (2) Any other household members including but not limited to children under guardianship or conservatorship, who reside at the home and their individual needs.
  - (3) Homes which accept a minor parent and his/her child(ren) shall have such child(ren) included in the home's licensed capacity.
  - (4) Physical features of the home, including available living space, which are necessary in order to comply with regulations.
- (b) The licensing agency shall be authorized to issue a license for fewer children than is requested when the licensing agency determines that the caregiver's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (c) When the license is issued for fewer children than requested, the caregiver shall be notified in writing of the reasons for the limitation and of the caregiver's right to appeal the decision as specified in Section 89240.
- (d) The licensing agency shall be authorized to restrict care to specific children.
  - (1) If care is limited to specific children, the licensing agency shall specify the names of the children in a letter to the caregiver.
  - (2) Except where the limitation is requested by the caregiver, the caregiver shall be notified in writing of the reasons for such limitation and of the caregiver's right to appeal the decision as specified in Section 89240.
- (e) The licensing agency shall have the authority to decrease the existing licensed capacity, with the caregiver's agreement, when there is a change in any of the factors specified in (b) above.
  - (1) If the caregiver does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 89242.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 11465, Welfare and Institutions Code; and Sections 1501 1501.1, 1505.2, 1507, 1520, 1515.15, 1526.5, 1526.75, 1529.1, 1529.2, 1529.3, 1531, 1531.2, 1533, 1534, 1538, and 1562, Health and Safety Code.

Renumber Section 87029 to new Section 89229 and amend to read:

89229      Withdrawal of Application

89229

- (a) An applicant shall have the right to withdraw, in writing, an application.
- (b) The Department must consent in writing to the withdrawal.

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- (1) Health and Safety Code Section 1553 provides in pertinent part:

The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.

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Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes 2001).

Reference: Sections 1503, 1503.5, 1508, 1520, 1536.1, 1540, 1540.1, 1541, 1547, and 1553, Health and Safety Code.

Renumber Section 87031 to new Section 89231 and amend to read:

89231      Issuance of License

89231

- (a) The licensing agency shall issue a license to the applicant after an application has been completed, an in-home visit has been made pursuant to Section 89227(a), and upon determination that all licensing requirements set forth in Article 3 of this chapter have been met.
- (b) No caregiver shall alter or provide false or misleading information to obtain any foster family home license.
- (c) The license shall be issued for a specific capacity consistent with Sections 89228(a) and (b).
- (d) The licensing agency shall notify the applicant in writing of such issuance.
- (e) No limitation shall be imposed on the caregiver or printed on the license solely on the basis that the caregiver is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1503, 1503.5, 1508, 1509, 1520, 1520.5, 1524, 1525, 1526, 1531.5, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code.

Renumber Section 87034 to new Section 89234 and amend to read:

89234      Changes to License

89234

- (a) Whenever there is a change in conditions or limitations described on the current license, including a change in location, the caregiver shall submit a new application, with updated information as required in Section 89218.

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- (b) Changes commonly overlooked but which require that a new application be filed include:

- (1) Any change in the location of the home.

(A) Prior notice of the move must allow for time to license the new home.

(B) A 30-day notice should provide adequate time for the licensing agency to license the home.

(C) If the licensing agency is not able to provide a site visit the first day the new home is occupied, when the licensing agency makes its site visit it may incorporate the placement worker's documentation to determine when the home first met core health and safety standards in accordance with Article 3 Licensing/Approval Standards.

(D) The physical license must be issued within 60 days of full licensing compliance.

- (2) Any change in the home category.

- (3) A permanent change in any child from ambulatory to non-ambulatory status.

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Authority Cited: Sections 1524, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, 1525.25, and 1531, Health and Safety Code.

Renumber Section 87035 to new Section 89235 and amend to read:

Post-hearing: Amnd Handbook Section 89235(a)(1) and Section 89235(b) to read:

89235      Conditions for Forfeiture of a Foster Family Home License

89235

- (a) Conditions for forfeiture of a foster family home license may be found in Section 1524 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1524 provides in pertinent part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs: (Continued)

- (e) The licensee dies. If an adult relative notifies the Department of his or her desire to continue operation of the facility and submits an application, the Department shall expedite the application. The Department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.
- (f) The licensee abandons the facility.

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- (2) "Caregiver abandons the home" shall mean either of the following:

- (A) The caregiver informs the licensing agency that the caregiver no longer accepts responsibility for the home, or
- (B) The licensing agency is unable to determine the caregiver's whereabouts after the following:
1. The licensing agency requests information of the caregiver's whereabouts from an adult at the home if an adult can be contacted; and
  2. The licensing agency has made at least one phone call per day, to the caregiver's last telephone number of record, for five consecutive workdays with no response; and
  3. The licensing agency has sent a certified letter, requesting the licensee caregiver to contact the licensing agency, to the caregiver's last mailing address of record with no response within seven calendar days.

- (b) If the caregiver dies or abandons the home and a responsible, adult with control of the property continues to operate the home, he or she shall file a new application, with evidence of caregiver's death if applicable, and shall be subject to Section 89206.



Authority Cited: Sections 1524, 1524(e), 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1503, 1503.5, 1508, 1520, 1521.5, 1523, 1524, 1524(e), 1536.1, 1540, 1540.1, and 1547, Health and Safety Code.

Repeal Article 4. (Title), renumber Section 87040 to new Section 89240 and amend to read:  
Post-hearing: Amend Handbook Section 89240(a)(3)(B)(a) to read:

89240 Denial of a License

89240

- (a) The licensing agency shall deny an application for a license if it is determined that the applicant is not in compliance with applicable law and regulation.
  - (1) The licensing agency shall have the authority to deny an application for a license if the applicant has failed to pay any civil penalty for unlicensed operations assessed pursuant to Section 89255, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
  - (2) The Department may deny any license as specified in Section 1550 of the Health and Safety Code. (Continued)
  - (3) An application for a license shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (A) Section 11165.6 of the Penal Code states:

"As used in this article, the term 'child abuse or neglect' means a physical injury which is inflicted by other than accidental means on a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. 'Child abuse or neglect' does not include a mutual affray between minors. 'Child abuse or neglect' does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer."

- (B) Section 273a of the Penal Code provides in part:

"(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured or willfully causes or permits that child to be placed in ~~such~~ a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

"(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor. . . ."

(C) Section 273d of the Penal Code provides in part:

"(a) Any person who willfully inflicts upon child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars (\$6,000), or by both that imprisonment and fine. . . ."

(D) Section 1531.5(c) of the Health and Safety Code states:

"As used in this section, 'child abuse' means a situation in which a child suffers from any one or more of the following:

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

"(5) (Continued)

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- (b) If the application for a license is denied, the licensing agency shall mail the applicant a written notice of denial. (Continued)
- (c) An applicant shall have the right to appeal the denial of the application pursuant to Section 1526 of the Health and Safety Code and in accordance with Section 1551 of the Health and Safety Code.

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(1) Health and Safety Code Section 1526 provides:

"Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a

hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein."

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- (d) Proceedings to hear an appeal of a denial shall be conducted pursuant to Section 1551(a) of the Health and Safety Code.

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- (1) Health and Safety Code Section 1551(a) provides in part:

"Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. . ."

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- (e) Notwithstanding any appeal action, the foster family home is unlicensed and shall not operate pending adoption by the Director of a decision on the denial action.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, 1520.3, 1522, 1522.01, 1522.2, 1525, 1526, 1531, 1531.5, 1547, 1550, 1551, and 1558.1, Health and Safety Code; Sections 273a, 273(d), 11165, 11165.1, 11165.2, 11165.3, 11165.4, and 11165.6, Penal Code; and Sections 11500, et seq., Government Code.

Renumber Section 87042 to new Section 89242 and amend to read:

89242      Revocation or Suspension of License      89242

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Section 1550 of the Health and Safety Code. (Continued)
- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Section 1551(a) of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1551(a) provides in part:

"Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. . ." (Continued)

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Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1522, 1522.01, 1522.2, 1533, 1534, 1538, 1550, and 1551, Health and Safety Code; and Sections 11500, et seq., Government Code.

Renumber Section 87044 to new Section 89244 and amend to read:

89244      Inspection Authority of the Department or Licensing Agency      89244

- (a) The Department or licensing agency shall have the inspection authority specified in Sections 1533, 1534, and 1538 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1533 provides in part:

". . . any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

"Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visits shall not constitute the annual evaluation visit required by Section 1534. Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"'Normal business hours,' as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays."

- (2) Health and Safety Code Section 1534(a) provides in part:

"(1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided. . .

"(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

"(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."

- (3) Health and Safety Code Section 1538 provides in part:

- "(a) Any person may request an inspection of any community care facility or certified family home in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.
- "(b) The substance of the complaint shall be provided to the licensee or certified family home and foster family agency no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee or certified family home and foster family agency nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or certified family home and foster family agency shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.
- "(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action. . .
- "(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action. . ."

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- (b) The licensing agency shall have the authority to interview any child in the home, and to inspect, reproduce and audit the children's or the home's records without prior consent.
  - (1) The caregiver shall make provisions for private interviews with any child and for the examination and reproduction of all records relating to the operation of the home.
- (Continued)

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1531, 1533, 1534 and 1538, Health and Safety Code.



Renumber Section 87045 to new Section 89245 and amend to read:

89245      Evaluation Visits

89245

- (a) Every home shall be evaluated as specified in Sections 1533 and 1534 of the Health and Safety Code.

#### HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1533 provides in part:

". . . any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

"Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visit shall not constitute the annual evaluation visit required by Section 1534. Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"'Normal business hours,' as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays."

- (2) Health and Safety Code Section 1534(a) provides in part:

"(1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided. . .

"(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

"(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."

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- (b) The licensing agency shall have the authority to make any number of additional visits to a foster family home in order to determine compliance with applicable law and regulation.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507.5, 1530.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

Renumber Section 87046 to new Section 89246 and amend to read:

89246	Exclusions	89246
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- (a) An individual can be prohibited from being employed, allowed in, and to have contact with clients in a licensed home as specified in Section 1558 of the Health and Safety Code.  
(Continued)

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1522, 1522.01, 1522.2, 1558, 1558.1, 1569 et seq., and 1596.9 et seq., Health and Safety Code; and Sections 11500 et seq., 11506, 11522, Government Code.

Renumber Section 87052 to new Section 89252 and amend to read:

89252 Deficiencies in Compliance (Continued)

89252

- (b) Prior to completion of a visit, the caregiver, or other person in charge of the home shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide a notice of deficiency to the caregiver by one of the following:
  - (1) Personal delivery to the caregiver, at the completion of the visit.
  - (2) If the caregiver is not at the home, leaving the notice with the person in charge, at the completion of the visit.
    - (A) Under such circumstances, a copy of the notice shall also be mailed to the caregiver.
  - (3) If the caregiver refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the caregiver.
- (d) (Continued)
  - (2) A description of the nature of the deficiency stating the manner in which the caregiver failed to comply with a specified statute or regulation, and the particular place or area of the home in which it occurred. (Continued)
  - (5) (Continued)
  - (6) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

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- (e) The following are examples of regulations which, if not complied with, nearly always result in a serious deficiency.
  - (1) Section 89410 relating to limitations on the capacity or ambulatory status of the children.
  - (2) Section 89510.1 relating to limitations on the capacity of specialized foster family homes.
  - (3) Section 89510.2 relating to dual licensure of specialized foster family homes.
  - (4) Section 89219 relating to criminal record clearance.

- (5) Section 89420 relating to fire clearance.
- (6) Section 89421 relating to water supply.
- (7) Section 89565.1 relating to specialized in-home health care training and health screenings for staff in specialized foster family homes.
- (8) Section 89372 relating to children's rights.
- (9) Section 89373 relating to telephone service.
- (10) Section 89475 relating to storing and dispensing medications.
- (11) Section 89376 relating to food, preparation and service.
- (12) Section 89387 relating to safety of children's accommodations.
- (13) Section 89587.1 relating to safety of accommodations for children with special health care needs.
- (14) Sections 89387(h) and (m) relating to hot water temperature and toilet facilities.
- (15) Section 89387(n) relating to storage and disposal of solid wastes.
- (16) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 89201(s)(1).

HANDBOOK ENDS HERE

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 17730, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1531, 1533, 1534, 1538, and 1553, Health and Safety Code; and Sections 17731 and 17732, Welfare and Institutions Code.

Renumber Section 87054 to new Section 89254 to read:

89254	Penalties (Continued)	89254
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Authority Cited: Sections 1522, 1530 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1522, 1533, 1534, 1538, and 1548, Health and Safety Code.

Renumber Section 87055 to new Section 89255 and amend to read:

89255      Unlicensed Facility Penalties

89255

(a)    (Continued)

      (1)    (Continued)

          (A)    For purposes of this section, an application shall be deemed completed if it includes the information required in Section 89218. (Continued)

      (2)    (Continued)

          (A)    Notwithstanding any appeal action, home operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b)    (Continued)

      (1)    (Continued)

          (A)    The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Sections 89255(a)(1)(A) and (B). (Continued)

(c)    (Continued)

      (1)    A site visit shall be made immediately or within five working days to verify that the unlicensed home operation has ceased. (Continued)

(e)    (Continued)

HANDBOOK BEGINS HERE

(f)    Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care home without a license. (Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 1524, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1503.5, 1508, 1520, 1533, 1536.1, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

Renumber Section 87055.1 to new Section 89255.1 to read:

89255.1	Denial or Revocation of License for Failure to Pay Civil Penalties (Continued)	89255.1
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Authority Cited: Sections 1522, 1530 and 1548, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1534, 1548, and 1551, Health and Safety Code.



Renumber Section 87056 to new Section 89256 to read:

89256	Unlicensed Facility Administrative Appeal (Continued)	89256
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Authority Cited: Sections 1530, 1530.5, and 1547, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1503.5, 1508, 1536.1, 1540, 1541, 1541.1, and 1547, Health and Safety Code.

Adopt new Section 89261, renumber Section 87061(b) to new Section 89261(a), and amend to read:

89261      Reporting Procedures

89261

- (a) Upon the occurrence, during the operation of the home, of any of the events specified in Section 89361(a), a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in Section 89361(b) shall be submitted to the licensing agency within seven days following the occurrence of such event.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1530.6, 1531, 1538, 1550.5, and 1557.5, Health and Safety Code.

Repeal Article 7 (Title), renumber Section 87086 to new Section 89286 and amend to read:

89286      Alterations to Existing Foster Family Homes      89286

- (a) The licensing agency shall have the authority to require that the caregiver have a building inspection by a local building inspector if the agency suspects that a hazard to health and safety exists.

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- (b) Prior to construction or alterations, state and local law requires that the caregiver shall secure a building permit.

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Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; and Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1525.5, and 1531, Health and Safety Code.

Amend Article 3. (Title); Renumber Section 87017 to new Section 89317 and amend to read:

Article 3. LICENSE/APPROVAL STANDARDS

89317      Applicant Qualifications (Continued)      89317

- (c)    An applicant for a foster family home license shall complete an orientation provided by the licensing/approval agency.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference:      Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1525.3, 1526.5, 1529.1, 1529.2, 1529.3, 1530.91, 1531, and 1562, Health and Safety.

Adopt new Section 89319 to read:

89319 Criminal Record Clearance Requirement

89319

All persons subject to criminal record review shall obtain a criminal record clearance from the California Department of Social Services or county as appropriate. Such review will require submission of completed fingerprints pursuant to Health and Safety Code Section 1522. The licensing/approval agency will also conduct a search of the Child Abuse Clearance Index and child abuse records. The licensing/approval agency may conduct an authorized search of the California Law Enforcement Telecommunications System (CLETS).

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1522 and 1522.1, Health and Safety Code.

Adopt new Section 89323 to read:

89323      Emergency Plan

89323

- (a) Each caregiver shall post emergency telephone numbers, discuss emergency situations with children, practice emergency procedures every six months and at time of new placements.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1520 and 1531, Health and Safety Code.

Repeal Article 6. (Title); Renumber Section 87061 to new Section 89361 and amend to read:

89361      Reporting Requirements

89361

- (a) Each caregiver shall furnish to the licensing/approval agency and the child's authorized representative such reports as required by the Department including but not limited to the following:
  - (1) (Continued)
  - (2) Any injury or illness to any child which requires medical treatment.
  - (3) (Continued)
  - (4) (Continued)
  - (5) Communicable diseases as reported to caregiver by a health professional.
  - (6) (Continued)
  - (7) (Continued)
  - (8) (Continued)
- (b) When a written report of such an event is required by the licensing/approval agency, the caregiver shall submit, within 7 days, a written report of such event, which includes the following information:
  - (1) (Continued)
  - (2) (Continued)
  - (3) (Continued)
  - (4) (Continued)
- (c) Any change in the caregiver's mailing address that does not also include a change in location shall be reported to the licensing/approval agency within 10 working days following the occurrence.
- (d) When there is a change in the location of the home, the caregiver shall notify the licensing/approval agency 30 days prior to the move or as soon as the information is available.

- (e) When the caregiver intends to be absent from the home for 48 hours or longer, the caregiver shall notify the licensing/approval agency and the child's authorized representative, in writing or by telephone and include the following information:
  - (1) Dates of intended absence.
  - (2) Whether the child will accompany the caregiver or remain in the home.
  - (3) Telephone number where caregiver may be contacted.
  - (4) Name, address, telephone number of substitute care provider.
- (f) The caregiver shall report all changes in household composition within ten working days. These changes shall include, but not be limited to:
  - (1) Any additions to the caregiver's family, including when the caregiver becomes guardian or conservator for any child or other person.
  - (2) The arrival or departure of any person, other than the children, residing in the home requires immediate notification and clearance per the requirements of Health and Safety Code Section 1522(b).

Authority Cited: Sections 1530 1530.5, 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1530.6, 1531, and 1557.5, Health and Safety Code.



Adopt new Section 89370 to read:

89370 Children's Records

89370

- (a) The caregiver shall maintain a separate, complete, and current record or file in the home for each child, which includes a current placement agreement and Needs and Services Plan for each child, and the name, birth date and date of placement in the home.
- (b) The file should also contain a written consent that authorizes the caregiver to obtain other ordinary medical and dental care in an emergency if the authorized representative cannot be reached.
- (c) All children's records shall be subject to inspection and reproduction by the licensing/approval agency when requested.
- (d) All information and records obtained from or regarding children shall be confidential except as otherwise authorized by law.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, 1531, and 1557.5, Health and Safety Code.

Adopt new Section 89372, renumber Section 87072(a)(7) et seq. to Section 89372(c)(19) et seq. and amend to read:

Post-hearing: Amend Section 89372(b) and (c) to read:

89372      Personal Rights

89372

- (a) The caregiver shall ensure that each child is accorded the personal rights specified in this section.
- (b) Each child, and his/her authorized representative, shall be personally advised, and given at admission a copy of the rights specified in (c) below.
- (c) Each child shall have personal rights which include but are not limited to the following:
  - (1) To be accorded safe, healthful and comfortable home accommodations, furnishings and equipment that are appropriate to his/her needs.
    - (A) To have storage space for his/her private use.
  - (2) To be treated with respect and to be free from physical, sexual, emotional or other abuse.
  - (3) To be treated with respect and to be free from discrimination, intimidation or harassment based on sex, race, color, religion, ancestry, national origin, disability, medical condition or sexual orientation or perception of having one or more of these characteristics.
  - (34) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature including but not limited to interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.
  - (45) To receive adequate and healthy food.
  - (56) To be provided adequate clothing and personal items.
    - (A) To wear his/her own clothes.
    - (B) To possess and use his/her own personal items including toiletries.
  - (67) To receive an allowance if living in a group home.
  - (78) To receive necessary medical, dental, vision, and mental health services.

- (89) To be free of the administration of medication or chemical substances, unless authorized by a physician and, if required, by court order.
- (910) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors and friends.
- (101) To contact family members, unless prohibited by court order.
- (142) To visit and contact brothers and sisters, unless prohibited by court order.
- (123) To contact social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
- (134) To have visitors, provided the rights of others are not infringed upon.
  - (A) Relatives, during waking hours, unless prohibited by court order, or by the child's authorized representative.
  - (B) Authorized representative.
  - (C) Other visitors, unless prohibited by court order or by the child's authorized representative.
- (145) To contact Community Care Licensing Division of the State Department of Social Services if residing in a licensed home, or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially and to be free from threats or punishments for making complaints.
  - (A) To be informed and to have his/her authorized representative informed, by the caregiver of the provisions of law regarding complaints, including but not limited to the address and telephone number of the complaint, receiving unit of the licensing agency and of information regarding the confidential registration of complaints.
- (156) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
  - (A) Reasonable restrictions may be imposed by the social worker/caregiver to calls and correspondence.
  - (B) No restrictions shall be applied to those listed in (c)(12) above.
  - (C) Other reasonable restrictions may be imposed. The caregiver may:
    - 1. Request long distance cost reimbursement, for calls made by the child, from the child or his/her authorized representative;

2. Be permitted to deny the making of long distance calls by the child upon verification that previous long distance calls have not been paid.
3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies;
4. Restrict the child's telephone use as reasonable discipline in compliance with (B) above, and shall be subject to social worker review.

(D) To have access to letter writing material.

~~(167)~~ To be free to attend religious services and activities of his/her choice and to have visits from the spiritual advisor of his/her choice.

~~(178)~~ To be accorded the independence appropriate to the child's age, maturity, and capability consistent with the child's Needs and Services Plan or Transitional Independent Living Plan (TILP) if applicable.

(A) To attend Independent Living Program classes and activities if he/she is 16 or older.

(B) To maintain an emancipation bank account.

(C) To manage personal income, consistent with his/her age and developmental level.

(D) To work and develop job skills at an age appropriate level that is consistent with state law.

(E) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with his/her age and developmental level.

~~(189)~~ To not be locked in any room, building, or family home.

(A) The caregiver shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of the children so long as the children can exit from the home.

~~(1920)~~ Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (A) through (F) below.  
(Continued)

~~(D)~~ (Renumbered to Section 89220(b)).

(D) (Continued)

(E) (Continued)

(F) (Continued)

(201) To be free to attend court hearings and speak to the judge.

(242) To contact his/her placing social worker to review his/her own case plan if he/she is over 12 years of age and to receive information regarding out-of-home placement and case plan, including being told of changes to the plan.

(223) To be accorded dignity in his/her personal relationships with other persons in the home.

(A) To be free from unreasonable searches of person.

(B) To be free from unreasonable searches of personal belongings.

(234) To have all his/her juvenile court records be confidential, consistent with existing law.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1520, 1530.9, 1531, and 1559.110, Health and Safety Code; ~~and~~ Section 16001.9, Welfare and Institutions Code; Unruh Civil Rightsj Act, Civil Code Section 51; and California Fair Employment and Housing Act, Government Code Sectin 12921.

Renumber Section 87073 to new Section 89373 and amend to read:

89373      Telephones

89373

All foster family homes shall have telephone service, unless alternative telephone access is approved and documented.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, 1524.7, and 1531, Health and Safety Code.

Adopt new Section 89374 to read:

89374      Transportation

89374

The caregiver shall ensure that all transportation provided for children in their care is provided in vehicles that are in safe operating condition and that the drivers comply with all applicable laws.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference:      Sections 1501 and 1531, Health and Safety Code.

Adopt new Section 89376 to read:

89376      Food Service

89376

- (a) The caregiver shall provide or ensure at least three nutritious meals per day and as necessary to meet any special dietary needs documented in the child's Needs and Services Plan.
- (b) Whenever children in placement eat at the home, they will have their meals with family members in a family setting.
- (c) Infants under seven months shall be held during bottle-feeding.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1520, and 1530, Health and Safety Code.



Renumber Section 87078 to new Section 89378 and amend to read:

89378      Responsibility for Providing Care and Supervision      89378

- (a) The caregiver shall provide care and supervision as necessary to meet each child's needs, and shall be available at all times unless documented in the child's Needs and Services Plan, placement agreement, or Transitional Independent Living Plan (TILP) or agreed to in advance by the licensing agency.
- (b) The caregiver shall provide those services identified in each child's Needs and Services Plan and Transitional Independent Living Plan (TILP) if applicable.
- (c) The caregiver is responsible for ensuring care and supervision of the child(ren) of any minor parent in placement.
  - (1) Direct care and supervision of the child(ren) of a minor parent is to be provided during the hours that the minor parent is unavailable or unable to provide such care and supervision.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 11465, Welfare and Institutions Code; and Sections 1501, 1520, 1530.6, 1531, and 1559.110, Health and Safety Code; and 42 USC Section 677 of the Social Security Act.

Renumber Section 87079 to new Section 89379 and amend to read:

89379      Activities

89379

- (a) The caregiver shall provide opportunity for, and encourage participation in, group sports, leisure time, family, special school, and daily living skill activities.
- (b) The caregiver shall ensure direct care and supervision is provided to meet the child's needs during participation in those activities that are sponsored by third parties, except that school-sponsored activities shall be presumed to provide adequate care and supervision.

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When a caregiver is determining whether a sponsor, other than a school, is providing adequate care and supervision, the caregiver should consider who the sponsor is and what supervision and safeguards are in place.

HANDBOOK ENDS HERE

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1530.6, and 1531, Health and Safety Code.

Renumber Section 87087 to new Section 89387 and amend to read:

Post-hearing: Amend Sections 89387(d), (e), and (l) to read:

89387 Building and Grounds

89387

- (a) The caregiver shall provide bedrooms in the home which shall meet, at a minimum, the following requirements unless a documented alternative plan is approved: (Continued)
  - (5) The caregiver shall provide each child with an individual bed which is equipped with a clean, comfortable mattress, clean linens, blankets, and pillows, as needed, all in good repair.
    - (A) Linen shall be changed at least once per week or more often when necessary to ensure that clean linen is in use by children at all times.
    - (B) Beds shall be arranged to allow easy passage between beds and easy entrance into the room.
  - (6) Each bedroom shall have portable or permanent closets and drawer space to accommodate the child's clothing and personal belongings.
  - (7) The caregiver shall provide each infant with a safe and sturdy bassinet or crib, appropriate to the child's age and size.
  - (8) Except for infants, children shall not share a bedroom with an adult.
    - (A) In bedrooms shared by adults and infants, no more than two infants and no more than two adults shall share the room.
  - (9) Sections 89387(a)(1) through (a)(8) apply to all bedrooms used by all children residing in the home, including children who are members of the caregiver's family, guardianship children, and children in placement.
  - (10) Sections 89387(a)(3) and (a)(4) apply to all bedrooms used by the caregiver and all other adults residing in the home.
- (b) The home shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of the children.
- (c) (Continued)
- (d) All homes that accept children under 10 years of age or a child that has a condition including one that makes the child developmentally disabled, or mentally handicapped, and for whom special care and supervision is required as a result of his/her condition, shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-

ground), fixed-in-place wading pools, hot tubs, spas, fish ponds, and similar bodies of water, ~~by using at least one of the following safety features:~~

(1) Inaccessibility shall be assured by using at least one of the following safety features in (A) or (B) below:

(+) (A) The pool shall be isolated from access to a home by an enclosure, as defined in Section 115921(c) and that meets the requirements of Section 115923 of the Health and Safety Code and does not obscure the pool from view.

#### HANDBOOK BEGINS HERE

Section 115921 of the Health and Safety Code states in pertinent part:

(c) "Enclosure" means a fence, wall, or other barrier that isolates a swimming pool from access to the home.

Section 115923 of the Health and Safety Code states:

An enclosure shall have all of the following characteristics:

(a) Any access gates through the enclosure open away from the swimming pool, and are self-closing with a self-latching device placed no lower than 60 inches above the ground.

(b) A minimum height of 60 inches.

(c) A maximum vertical clearance from the ground to the bottom of the enclosure of two inches.

(d) Gaps or voids, if any, do not allow passage of a sphere equal or greater than four inches in diameter.

(e) An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over.

#### HANDBOOK ENDS HERE

(-) (B) The pool shall be equipped with an approved safety pool cover as defined in Section 115921 of the Health and Safety Code.

#### HANDBOOK BEGINS HERE

Section 115921(d) of the Health and Safety Code states in pertinent part:

(d) "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

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- (3) (C) When the Department determines that it is not feasible for the caregiver to comply with (1A) or (2B) above, the residence shall be equipped with exit alarms, as defined in Section 115921(e) of the Health and Safety Code, on those doors providing direct access to the pool.

1. Where it is feasible to comply in part with (A), the Department may authorize use of a combination of (A) and (C).

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Section 115921 of the Health and Safety Code states in pertinent part:

(e) "Exit alarms" means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

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- (4) ~~All doors providing direct access from the home to the swimming pool shall be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor.~~
- (5) 2. All windows providing direct access from the home to the swimming pool shall be secured so that they cannot open more than 4 inches, however, if they are sleeping rooms, they must use an exit alarm.
- (6) (D) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the devices set forth in subdivisions (1A) to (4C), inclusive, as determined by the building official of the jurisdiction issuing the applicable building permit, or other official documentation. Any ordinance governing child access to pools adopted by a political subdivision on or before January 1, 1997, is presumed to afford protection that is equal to or greater than that afforded by any of the devices set forth in subdivisions (aA) to (dC), inclusive.
- (A) 1. The caregiver must submit to the department documentation of approval by the building official of his/her jurisdiction before accepting children described in subsection (dD) above.

- (B) 2. If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 89387(d)(1)(A) until such fence is replaced or structurally altered. When the caregiver replaces or alters the fence, it shall be required to meet the fence requirements specified in Section 89387(d)(1)(A).
- (e) If the home has an above-ground pool, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible and if the pool is less than 60 inches in height, by the use of a barricade. Any barricade, whether or not it includes the above-ground pool structure itself, shall meet the requirements of Section 89387(d)(1)(A).
- (f) (Continued)
- (g) An adult who has the ability to swim shall provide supervision at all times when children are using a pool or a body of water from which rescue requires the rescuer's ability to swim.
- (h) The caregiver who accepts a child with a disability shall make necessary specific provisions including but not limited to changes to the buildings and grounds as required to protect and assist the child and maximize the child's potential for self-help.
- (i) The caregiver shall maintain at least one toilet, sink, and tub or shower maintained in safe, clean operating conditions.
- (j) Bunk beds of more than two tiers shall not be used.
- (1) Bunk beds shall have railings on the upper tier to prevent falling.
- (2) Children under five years of age or those who are unable to climb into or out of the upper tier unassisted shall not be permitted to use the upper tier.
- (k) The caregiver shall maintain a comfortable temperature for children at all times.
- (l) The caregiver shall ensure the safety of ~~the children~~ in a home with that has fireplaces, ~~and~~ open-faced heaters, ~~and~~ or woodstoves.
- (m) The caregiver shall provide lamps or light as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the home.
- (n) Faucets used by clients for personal care and grooming shall deliver hot water at a safe temperature.
- (o) Waste shall be stored, located and disposed of in a manner that will not permit the transmission of communicable disease or of odors, create a nuisance, provide a breeding place or food source for insects or rodents.

- (p) All foster family homes, except homes with sprinkling systems, shall have an approved commercially manufactured and functioning smoke detector installed in the hallway(s) in each sleeping area in the home. The smoke detectors shall be audible in each bedroom or sleeping room.
- (q) Each bedroom or sleeping room shall have at least one operable window or door that ensures safe, direct, emergency exit to the outside. If security window bars are used, the window is considered operable only if the window bars have a safety release device that meets all state and local requirements.

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The Department shall notify the caregiver of the requirements of Section 1531.4 of the Health and Safety Code, which states:

On and after January 1, 1999, no security window bars may be installed or maintained on any community care facility unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

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Authority Cited: Sections 1530, 1530.5, 1531, and 115926, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1531, 1531.4, 115921, and 115923, Health and Safety Code.

Renumber Section 87087.2 to new Section 89387.1 and amend to read:

89387.1      Outdoor Activity Space 89387.1

- (a)    The caregiver shall provide yard or outdoor activity space that is free from hazards to life and health.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference:        Sections 1501, 1501.1, and 1531, Health and Safety Code.



Renumber Section 87087.4 to new Section 89387.2 and amend to read:

89387.2      Storage Space

89387.2

- (a) Medicines, disinfectants, cleaning solutions, poisons, firearms and other dangerous items shall be stored where inaccessible to children.
  - (1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.
  - (2) In lieu of locked storage of firearms, the caregiver may use trigger locks or remove the firing pin. (Continued)
- (b) Medicines, disinfectants, and cleaning solutions may be accessible to children consistent with the child's Needs and Services Plan or TILP if applicable.

Authority Cited: Sections 1524, 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501 and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and 42 USC Section 677 of the Social Security Act.

Adopt new Section 89388, renumber Section 87012(a) to new Section 89388(b) and amend to read:

89388      Cooperation and Compliance      89388

- (a) The caregiver shall maintain and cooperate with all caregiver standards.
- (b) No caregiver shall make or disseminate any false or misleading statement associated with the application for licensure/approval, including but not limited to information regarding the applicant, family members, family home, or any of the services provided by the home.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

Adopt new Article 4. (Title) and new Section 89400 to read:

Article 4. PLACEMENT

89400      Licensure Is Not an Entitlement to Placement      89400

- (a) A license is required prior to placement, but the license does not entitle the caregiver to placement of a child pursuant to Section 16507.5 of the Welfare and Institutions Code.

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- (1) Welfare and Institutions Code Section 16507.5 provides in part:

The granting of a community care license or approval status does not entitle the caregiver to the placement of a specific child or children. Placement is based on the child's needs and best interest.

HANDBOOK ENDS HERE

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501 and 1501.1, Health and Safety Code; and Section 16507.5, Welfare and Institutions Code.

Adopt new Section 89405, renumber Section 87017(d) et seq. to new Section 89405(d) et seq. and amend to read:

Post-hearing: Amend Section 89405 to read:

89405 Training Requirements

89405

- (a) Any time a child is in the home, at least one of the persons providing regular and routine care and supervision to the child shall have received current training in first aid and/or Cardiopulmonary Resuscitation (CPR). Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be current and appropriate to the child's age and needs.

~~In addition to all other required training, the caregiver shall complete the training required in Section 1529.2 of the Health and Safety Code.~~

- (b) The caregiver is required to complete a minimum of 12 hours of training prior to placement of a child in the home and a minimum of 8 hours of annual training as required in Health and Safety Code Section 1529.2. In addition, the caregiver shall complete first aid and CPR training as required in Section 89405(a).

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1529.2 provides:

"(a) In addition to the foster parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, foster family agencies shall supplement the community college training by providing a program of training for their certified foster families.

"(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of eight hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

"(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

- "(i) Lack of access to training due to the cost or travel required.
- "(ii) Family emergency.
- "(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.
- "(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:
  - "(A) An overview of the child protective system.
  - "(B) The effects of child abuse and neglect on child development.
  - "(C) Positive discipline and the importance of self-esteem.
  - "(D) Health issues in foster care.
  - "(E) Accessing education and health services available to foster children.
- "(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:
  - "(A) Age-appropriate child development.
  - "(B) Health issues in foster care.
  - "(C) Positive discipline and the importance of self-esteem.
  - "(D) Emancipation and independent living skills if a foster parent is caring for youth.
- "(5) Foster parent training may be attained through a variety of sources, including community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's Conference, adult schools, and certified foster parent instructors.
- "(6) A candidate for placement of foster children shall submit a certificate of training to document completion of the training requirements. The certificate shall be submitted with the initial consideration for placements and provided at the time of the annual visit by the licensing agency thereafter.

"(c) Nothing in this section shall preclude a county from requiring county-provided preplacement or postplacement foster parent training in excess of the requirements in this section."

(b) The following are examples of course, seminar, conference or training topics which will be accepted by the licensing agency to meet the requirements in (a) above. Programs which can be shown to be similar will also be accepted. (Continued)

- (6) Building self-esteem, for the caregiver or the children
- (7) Record keeping
- (8) Caregiver rights and grievance process
- (9) Licensing and placement regulations
- (10) Rights and responsibilities of foster family home providers

HANDBOOK ENDS HERE

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1529.1, 1529.2, 1529.3, and 1562, Health and Safety Code; and Section 903.7, Welfare and Institutions Code.

Renumber Section 87010 to new Section 89410 and amend to read:

89410      Limitations on Capacity and Ambulatory Status      89410

- (a) The caregiver shall not operate a home beyond the conditions and limitations specified in the license, including the capacity limitation.
- (b) The caregiver shall not accept more than two infants, including infants in the caregiver's family, without additional household help.
- (c) The caregiver shall not place nonambulatory children in any room approved to accommodate only ambulatory children. (Continued)

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1525.25, 1530.6, and 1531, Health and Safety Code.

Renumber Section 87020 to new Section 89420 and amend to read:  
Post-hearing: Amend Handbook Section 89420(a)(1) to read:

89420      Fire Clearance

89420

- (a) Prior to accepting a disabled child, or deciding to continue to provide services to a child determined after placement to have a disability, the caregiver shall notify the licensing agency so that a fire clearance, approved by the local fire authority having jurisdiction, can be obtained.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 13143 provides ~~generally~~ in pertinent part:  
(Continued)

HANDBOOK ENDS HERE

- (b) The licensing agency shall approve postural supports only after the appropriate fire clearance has been secured.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507.2, 1531, 1531.4, and 13143, Health and Safety Code.



Renumber Section 87021 to new Section 89421 and amend to read:

89421      Water Supply Clearance

89421

- (a) Any home where water for human consumption is from a private source shall meet the following requirements:
- (1) Prior to the home accepting its first placement, the caregiver shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health or a licensed commercial laboratory.
  - (2) Subsequent to placement the caregiver shall be required to provide additional analyses only when the licensing agency documents the need for an analysis to assure the health and safety of the children.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1520 and 1531, Health and Safety Code.

Renumber Section 87065 to new Section 89465 and amend to read:  
Post-hearing: Amend Section 89465(d) to read:

89465 Caregiver Requirements

89465

- (a) The licensing agency shall have the authority to require any caregiver to provide additional household help whenever the agency determines that additional help is required for the provision of necessary services to children. (Continued)
  - (2) The following factors shall be used in determining the need for additional staff: (Continued)
    - (D) Any change in the considerations listed in Section 89231(c).
- (b) The caregiver, including additional help, shall be in good health, and shall be physically, mentally, and occupationally capable of complying with these regulations. (Continued)
  - (2) (Continued)
    - (A) The presence of any health condition that would create a hazard to the caregiver or children.
- (c) Physician reports from general practitioners or specialists may be required after licensure if the licensing agency has reason to believe that the physical and/or mental health of the caregiver, including additional help, is not adequate to carry out responsibilities specified in these regulations.

HANDBOOK BEGINS HERE

- (1) The licensing agency shall provide the caregiver a written explanation of the need for any additional report.
- (2) The licensing agency shall specify in writing what written information is required from the caregiver.

HANDBOOK ENDS HERE

- (d) All ~~other~~ adults regularly present in the home shall ~~have a~~ submit verification of their test results for tuberculosis that was performed not more than one year prior to ~~or seven days after initial presenece in the facility~~ placement of the first child in the home.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1530.6, and 1531, Health and Safety Code.

Renumber Section 87068.1 to new Section 89468 and amend to read:  
Post-hearing: Amend Section 89468 to read:

89468 Admission Procedures

89468

- (a) At the time of placement for each child, the caregiver shall request from the placement worker, if it is not provided immediately, the Child's Health and Education Passport and Needs and Services Plan.
- (b) The Needs and Services Plan shall contain the following information which includes but is not limited to:
  - (1) - (8) (Continued)
- (c) As soon as the Needs and Services Plan and Health Education Passport is received from the placement worker, the caregiver shall review the information and determine:
  - (1) The caregiver's ability to meet the individual needs of the child.
  - (2) The caregiver's ability to continue meeting the needs of other children and the caregiver's family.
- (d) If it is determined after review that the home cannot meet the service needs of the child, the caregiver shall:
  - (1) Inform the child's authorized representative.
  - (2) Request that the child be placed elsewhere.
- (e) The caregiver shall keep a copy of the current Needs and Services Plan, Transitional Independent Living Plan (TILP) and the health education passport and comply with the portion of the case plan provided by the placing social worker that pertains to care of the child.
- (f) The caregiver shall provide an orientation of the personal rights as set forth in Section 89372 to every child, in an age- and developmentally-appropriate manner, and to the child's authorized representative.
  - (1) In addition to the requirements of Section 89468(f), when the home is licensed to provide care for 6 or more children, the caregiver shall also post a listing of the personal rights (PUB 396). The listing of personal rights shall be posted in an area of the home that is accessible to the child and his or her authorize representative.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1520, 1530.6, 1530.91, 1531, and 1557.5, Health and Safety Code.

Renumber Section 87069 to new Section 89469 and amend to read:  
Post-hearing: Amend Section 89469(a) to read:

89469      Children's Medical Assessments

89469

- (a) Within 30 days of accepting a child, the caregiver shall obtain a recent written medical assessment.
  - (1) A recent medical assessment shall not be more than a year old.
- (b) The licensing agency shall have the authority to require the caregiver to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a child's placement.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1530.6, 1531, and 1557.5, Health and Safety Code.

Renumber Section 87075, in part, to new Section 89475 and amend to read:

89475 Health Related Services

89475

- (a) Family health care as defined in Section 89201 shall be administered as outlined by the appropriate medical professional in writing.
  - (1) The medical professional shall provide adequate, practical and written instruction.
- (b) Any time a child is in the home, at least one of the persons providing regular and routine care and supervision to the child shall have current training in first aid and CPR. Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be appropriate to the child's age and needs.
  - (1) The caregiver shall maintain copies of unexpired first aid and CPR certificates documenting the training required.
  - (2) The caregiver shall maintain first aid supplies appropriate to the needs of the children in care.
- (c) When a child has a health condition that requires the administration of medication, the caregiver shall:
  - (1) Assist children with self-administration as needed.
  - (2) Ensure that instructions are followed as outlined by the appropriate medical professional.
  - (3) Medication shall be stored in the original container with the original unaltered label.
  - (4) Prescription medication must be administered as per directions on the label or as advised by the physician in writing.
  - (5) Non-prescription medication must be administered as directed by the appropriate medical professional and documented by the caregiver.
  - (6) The administration of PRN medication shall also require documentation by the caregiver of the date, time and dose of medication administered.
  - (7) If the child can not determine his/her own need, the caregiver shall determine need in accordance with medical instructions.

Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1530.6 and 1531, Health and Safety Code; and Business and Professions Code Section 2727(a).

Adopt new Article 5. (Title); Renumber Section 87010.1 to new Section 89510.1 and amend to read:

#### Article 5. SPECIAL HEALTH CARE NEEDS

89510.1      Limitations on Capacity for Specialized Foster Family Homes      89510.1

(a) No more than two children with or without special health care needs shall reside even on a temporary basis in a specialized foster family home with the following exceptions:

(1) A specialized foster family home may accept a third child with or without special health care needs provided that the licensed capacity, as determined by the licensing agency under Section 89228 is not exceeded, and all of the following conditions are met:

(A) The county social worker, regional center caseworker or authorized representative responsible for the placement of the child determines the following:

1. That in the county or, if the child is a regional center client, the regional center catchment area, in which the home is physically located,  
(Continued)

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 17732, 17732(a) and 17736(b), Welfare and Institutions Code and Sections 1502(a), 1507, 1507.2, 1507.5, and 1530.6, Health and Safety Code.



Renumber Section 87010.2 to new Section 89510.2 and amend to read:

89510.2      Prohibition of Dual Licensure for Specialized Foster Family Homes      89510.2

- (a) A foster family home caregiver shall not hold any day care, other residential or health care home license for the same premises as the foster family home while caring for children with special health care needs.
  - (1) Any foster family home caregiver planning to care for a child with special health care needs who holds any license as specified in (a) above shall surrender the license prior to accepting a child with special health care needs.

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 17732, Welfare and Institutions Code and Section 1531, Health and Safety Code.

Renumber Section 87065.1 to new Section 89565.1 and amend to read:

89565.1 Caregiver Requirements for Specialized Foster Family Homes 89565.1

- (a) In addition to Section 89465, the caregiver and any other person who is providing in-home health care to a child with special health care needs shall comply with the following requirements: (Continued)
- (b) (Continued)
  - (2) (Continued)
    - (B) The presence of any health condition that would create a hazard to the caregiver, children or staff.

Authority Cited: Section 17730, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 17731(c), Welfare and Institutions Code and Sections 1531 and 1562, Health and Safety Code.

Renumber Section 87066 to new Section 89566 and amend to read:

89566 Personnel Records for Specialized Foster Family Homes

89566

- (a) The caregiver shall ensure that the personnel records of the caregiver and all persons subject to the requirements of Section 89565.1(a) contain the following:
  - (1) For any training or additional training from which the caregiver or other in-home health care provider is exempt:
    - (A) Documentation that the child's individualized health care plan team has determined that it is not necessary for the caregiver or other in-home health care provider to complete the specialized in-home health care training or additional training. (Continued)
  - (2) For any training or additional training from which the caregiver or other in-home health care provider is not exempt:
    - (A) Documentation, by a health care professional providing the training, that he/she has successfully completed the specialized in-home health care training specified in Section 89565.1(a)(1).
- (b) The caregiver of a foster family home caring for children with special health care needs shall ensure that employee records contain the following information: (Continued)
  - (8) Termination date if no longer employed by the home.
- (c) Records of health screenings and tests for tuberculosis required by Sections 89565.1(b) and (b)(1) shall be on file. (Continued)
- (e) All personnel records shall be retained for at least three years following termination of employment.

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 17731, Welfare and Institutions Code and Sections 1501, 1501.1, 1507, 1507.2, and 1531, Health and Safety Code.

Renumber Section 87069.1 to new Section 89569.1 and amend to read:  
Post-hearing: Amend Section 89569.1(a)(7) to read:

89569.1 Individualized Health Care Plans for Specialized Foster Family Homes 89569.1

- (a) The caregiver shall not accept a child with special health care needs unless the caregiver has obtained an individualized health care plan for the child. The plan shall include the following information: (Continued)
  - (2) The appropriate number of hours of on-site supervision and monitoring, and the appropriate number of hours of off-site supervision and monitoring, needed to be provided by the monitor designated in Section 89569.1(a)(1), above. (Continued)
  - (5) Specific responsibilities of the caregiver for the provision of specialized in-home health care, including any required training and/or additional training. (Continued)
  - (7) Identification of any psychological, emotional, behavioral, or medical problems that will be identified in the child's Needs and ~~N~~Services Plan or the medical assessment specified in Section 89469. (Continued)

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 17731(c), Welfare and Institutions Code.

Renumber Section 87070.1 to new Section 89570.1 and amend to read:

89570.1 Additional Children's Records for Specialized Foster Family Homes 89570.1

- (a) In addition to Section 89370, the caregiver shall ensure that records for each child with special health care needs contain the following: (Continued)
  - (2) A copy of the child's individualized health care plan as specified in Section 89569.1.
  - (3) A copy of the written reassessment of the child's individualized health care plan as specified in Section 89569.1(b).
- (b) The caregiver of a specialized foster family home not exceeding the two-child capacity limit shall ensure that each child's Needs and Services Plan contains the following information in addition to the information required in Section 89468:
  - (1) Documentation by the child's county social worker, regional center caseworker or authorized representative that the needs of the child can be met by the home.
    - (A) New documentation shall be obtained for all children and placed in the respective Needs and Services Plans each time there is an increase or turnover in children and the home meets the conditions described in above Section 89570.1(b).
- (c) If a third child is placed in a specialized foster family home, the caregiver shall ensure that:
  - (1) The Needs and Services Plan for the third child documents the determination specified in Section 89510.1(a)(1)(A).
  - (2) The Needs and Services Plan for each child in the home documents the determinations specified in Sections 89510.1(a)(1)(B) and (B)1.
  - (3) The individualized health care plan for each child with special health care needs documents the determinations specified in Sections 89510.1(a)(1)(C) and (C)1. (Continued)

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 17710, 17731, and 17732(a), Welfare and Institutions Code and Section 1531, Health and Safety Code.

Renumber Section 87072.2 to new Section 89572.2 and amend to read:  
Post-hearing: Amend Section 89572.2 to read:

89572.2 Personal Rights for Children with Special Health Care Needs 89572.2

(a) ~~Except as specified in this section, Section 89372(a)(8) shall not apply to e~~Children with special health care needs: are afforded all the personal rights specified in Section 89372, with the following modifications:

- (1) Section 89372(c)(8) shall not apply to children with special health care needs, Children with Special Health Care Needs have the right to be free of the administration of medication or chemical substances except as specifically provided in a child's individualized health care plan.
- (b) (2) ~~In addition to Section 89372, but notwithstanding Section 89372(c)(19), a child shall not apply to children~~ with special health care needs. A child with special health care needs has the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not except as required to treat the child's specific medical symptoms and addressed or outlined in the child's individualized health care plan.

(+ (A) (Continued)

(A) 1. (Continued)

(B) 2. (Continued)

(C) 3. (Continued)

(2) (B) Postural supports as specified in Section 89372(c)(19)(A), half-bedrails, and protective devices as specified in Section 89372(c)(19)(F), may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

Authority Cited: Section 17730, Welfare and Institutions Code; Section 1530, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 16001.9, 17730 and 17736, Welfare and Institutions Code.

Renumber Section 87087.1 to new Section 89587.1 and amend to read:

89587.1      Additional Buildings and Grounds Requirements for Specialized      89587.1  
                 Foster Family Homes (Continued)

- (b) Notwithstanding Section 89387(a)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the home if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.
- (c) When required by the child's individualized health care plan, the caregiver(s) or other adult caring for the child shall sleep in a bedroom adjacent or in close proximity to the child's room.

Authority Cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 17732, Welfare and Institutions Code.

Repeal Section 87007.1:

87007.1 Certified License Pending Homes

87007.1

Authority Cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code.

Reference: Section 1505, Health and Safety Code; and Sections 362, 362.5, 727 and 17710(i), 17736, and 17736(b), Welfare and Institutions Code.



Repeal Section 87012:

87012      False Claims

87012

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1508 and 1531, Health and Safety Code.

Repeal Section 87022:

87022      Plan of Operation

87022

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1512, 1520 and 1531, Health and Safety Code.

Repeal Section 87023:

87023      Disaster and Mass Casualty Plan

87023

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

Repeal Section 87025:

87025      Bonding

87205

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1525.5, 1560 and 1561, Health and Safety Code.

Repeal Section 87030:

87030      Provisional License

87030

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference:      Section 1525.5, Health and Safety Code.

Repeal Section 87036:

87036      Application/Renewal Processing Fee

87036

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 1524, Health and Safety Code.

Repeal Section 87043:

87043      Licensee/Applicant Complaints

87043

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Repeal Article 5. (Title) and Section 87051:

87051      Serious Deficiencies

87051

Authority Cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5,  
Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.



Repeal Section 87053:

87053 Follow-up Visits Determine Compliance

87053

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1534 and 1553, Health and Safety Code.

Repeal Section 87064:

87064      Licensee Duties And Responsibilities

87064

Authority Cited:    Sections 1530 and 1530.5, Health and Safety Code.

Reference:           Sections 1501, 1507.5 and 1531, Health and Safety Code.

Repeal Section 87068:

87068 Admission Agreements

87068

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1512, 1524.7, and 1531, Health and Safety Code.

Repeal Section 87068.2:

87068.2 Needs and Services Plan

87068.2

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1507.5 and 1531, Health and Safety Code.

Repeal Section 87068.3

87068.3 Modifications To Needs And Services Plan

87068.3

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Repeal Section 87070:

87070 Children's Records

87070

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Repeal Section 87072:

87072      Personal Rights

87072

Authority Cited:    Sections 1530 and 1530.5, Health and Safety Code.

Reference:           Sections 1501 and 1531, Health and Safety Code.

Repeal Section 87072.1

87072.1     Discipline

87072.1

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.



Repeal Section 87074:

87074      Transportation

87074

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Repeal the following subsections from Section 87075:

87075      Health Related Services

87075

Authority Cited:    Sections 1530 and 1530.5, Health and Safety Code.

Reference:           Sections 1501, 1507, 1507.5, 1530.6 and 1531, Health and Safety Code; and  
Business and Professions Code Section 2727(a).

Repeal Section 87076:

87076      Food Service

87076

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Repeal Section 87088:

87088      Fixtures, Furniture, Equipment, and Supplies

87088

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Post-hearing: Renumber Section 89221 to Section 89185 to read:

~~89221~~185    Health Protection of Clients – General Requirement (Continued)                      ~~89221~~185

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.